

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST

: FINAL DECISION

JAMES R. KARLIN, D.D.S., : AND ORDER LS9603181DEN RESPONDENT.

The State of Wisconsin, Dentistry Examining Board, having considered the abovecaptioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Dentistry Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this _____ day of ____

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST

JAMES R. KARLIN, D.D.S.

LS9603181DEN

Respondent

PROPOSED DECISION

The parties to this proceeding for the purposes of sec. 227.53, Stats., are:

James R. Karlin, D.D.S. P.O. Box 38 Goleta, CA 93116

Department of Regulation & Licensing Division of Enforcement 1400 East Washington Avenue P.O. Box 8935 Madison, WI 53708-8935

State of Wisconsin
Dentistry Examining Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

A hearing was conducted in the above-captioned matter on May 13, 1996, at 1400 East Washington Avenue, Madison, Wisconsin. Complainant appeared by Attorney James E. Polewski. Respondent did not appear, nor did anyone appear to represent him. Complainant moved for default under sec. RL 2.14, Code, and that motion was granted pursuant to presentation by complainant of prima facie evidence supporting the allegations of the complaint.

Based upon the entire record of this case, the administrative law judge recommends that the Dentistry Examining Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

- 1. James R. Karlin, D.D.S.(respondent), P.O. Box 38, Goleta, CA 93116, born March 23, 1938 was licensed on June 18, 1965, to practice dentistry in the State of Wisconsin by license #5000174. The license expired on October 1, 1993. Respondent has the right to renew the license through September 30, 1998.
- 2. From June 1979 through March 1992, Karlin was the treating dentist for Julie Rebholz, who was born in 1970. During that period, Karlin did numerous restorations of, and placed crowns on, Julie Rebholz' teeth.
- 3. In providing dental services to Julie Rebholz, respondent consistently failed to adequately prepare teeth for the placement of restorations, in that he left decay at the base of the cavity in which he placed fillings, so that additional decay of the teeth involved was readily foreseeable and did in fact occur.
- 4. Respondent placed veneers on Julie Rebholz upper anterior teeth with inadequate margins resulting in inflammation of the gingiva and plaque accumulation.
- 5. During the time that respondent was providing dental services to Julie Rebholz, respondent repeatedly bit Julie Rebholz on the face when she would flinch from pain inflicted by respondent during dental procedures.
- 6. Respondent failed to provide adequate anesthesia to Julie Rebholz for predictably painful dental procedures despite her clearly and repeatedly communicating her pain and the need for local anesthesia.
- 7. Respondent refused to provide Julie Rebholz with usual dental services for aesthetics and patient comfort, such as temporary crowns for anterior teeth.
- 8. Respondent told Julie Rebholz that his refusal to provide adequate anesthesia and usual services for aesthetics and patient comfort was because the condition of her teeth was her fault.
- 9. Beginning no later than 1979 and continuing through March 1992, respondent was the treating dentist for Jennifer Rebholz, who was born in 1971. During the period in which respondent was the treating dentist for Jennifer Rebholz, he placed numerous restorations, and performed work including root canal treatment, crowns and orthodontia.
- 10. Jennifer Rebholz continued to experience pain from inadequately performed root canal treatment, and required additional dental treatment to correct improperly completed restorations, crowns and root canal treatment.

- 11. During the time respondent was providing dental treatment to Jennifer Rebholz, he repeatedly bit Jennifer Rebholz when she would flinch from pain inflicted by respondent during dental procedures.
- 12. Respondent failed to consistently comply with universal infection control precautions while providing dental treatment to Julie Rebholz and Jennifer Rebholz between 1986 and 1991.

CONCLUSIONS OF LAW

- 1. The Dentistry Examining Board has jurisdiction in this matter pursuant to sec. 447.07, Stats.
- 2. Respondent's conduct in failing to adequately prepare teeth for restorations and in placing crowns in such a way that gum tissue was compromised constitutes practice which substantially departs from the standard of care ordinarily exercised by a dentist which harms or could have harmed a patient, in violation of sec. DE 5.02(5), Code, and sec. 447.07(3), Stats.
- 3. Respondent's conduct in failing to provide adequate anesthesia and usual services for aesthetics and patient comfort to Julie Rebholz on the grounds that she did not deserve that standard of care is conduct which substantially departs from the standard of care ordinarily exercised by a dentist, which harms or could have harmed a patient, in violation of sec. DE 5.02(5), Code, and sec. 447.07(3), Stats.
- 4. Respondent's failure to adequately perform dental services for Jennifer Rebholz so that she required corrective dental work constitutes conduct which substantially departs from the standard of care ordinarily exercised by a dentist, which harms a patient, in violation of sec. DE 5.02(5), Code, and sec. 447.07(3), Stats.
- 5. Respondent's conduct in biting Jennifer Rebholz and Julie Rebholz when they flinched from pain inflicted during dental treatment is unprofessional conduct in violation of sec. DE 5.02, Code, and sec. 447.07(3), Stats.
- 6. Respondent's conduct in failing to consistently comply with universal infection control precautions constitutes conduct which substantially departs from the standard of care ordinarily exercised by a dentist, which could have harmed a patient, in violation sec. DE 5.02(5), Code, and sec. 447.07(3), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that the license of James R. Karlin to practice as a dentist in the State of Wisconsin, and any right to renew the license, be, and hereby are, revoked.

IT IS FURTHER ORDERED that pursuant to sec. 440.22, Stats. the costs of this proceeding are assessed against the respondent.

OPINION

Dr. Karlin failed to file an Answer to the Complaint, failed to respond to a Notice of Prehearing Conference, and failed to appear for the hearing. He is therefore in default under sec. RL 2.14, Code, and the board may make findings of fact, conclusions of law and enter an order based upon the Complaint and other evidence. Such other evidence was presented at the hearing herein through the testimony of Jennifer Rebholz Gorgen and Julie Rebholz Patterson, the patients herein, and of James Bojar, D.D.S., the dentist who provided care for these patients following the treatment provided by Dr. Karlin. That testimonial evidence fully supports the allegations of the Complaint.

Jennifer Rebholz Gorgen testified first. Her testimony included the following:

"I left Dr. Karlin because he wasn't doing correct work. My fillings that he had replaced on my lowers were falling out, were breaking, were causing a lot of pain. He had left cement on my teeth from my braces which was causing my teeth to chip and the root canal that he did still left a lot of pain. If I were to lock my jaw a bit when he was working in my mouth because he was causing an extreme amount of pain he would bite me back. He would do little nips on my cheek or my nose or my ear or on my hand or arm. [He started wearing masks or gloves] only in the last year I was there. He'd pull his mask down to bite me.

Julie Rebholz Patterson testified by telephone:

[I was a patient of Dr. Karlin's from approximately June 1979 until March, 1992. He did cosmetic dentistry] on my four front teeth. Dr. Karlin was supposed to put on four porcelain crowns. He drilled away part of the decay and then he left four pegs for front teeth and he would not put any temporary crowns on at all. He told me that he hoped I didn't have a date that weekend because I looked like a witch I did in fact have date that weekend]. And he didn't give me enough anesthetic to numb it while he did the work [I was in pain] because the nerves were exposed. [I informed Dr. Karlin that I was in pain] I was actually crying. I asked him several times to stop because it hurt so bad. He said too bad, it was my fault and he wasn't giving me any more medication. And then, a week later I went back and instead of porcelain crowns, I got veneers. When he was working on my front teeth, the first time I felt pain, I automatically closed my mouth. Just kind of a kneejerk reaction. He didn't like that, so he bit me on the cheek. And he told me if I didn't open my mouth again, he'd bite my nose. And I didn't open my mouth again because it hurt so bad, I had to give myself a minute to just kind of let the pain ease up a little bit before I could open my mouth and could go on. So he bit my nose until I opened my mouth. The last couple of years, most of the time he would have the gloves on and have the mask on, but not all the time. He'd take the mask off when he'd bite my nose or bite my cheek.

Dr. James Bojar provided dentistry services to Jennifer and Julie Rebholz beginning in the Fall of 1993, and extending for a period of approximately two years thereafter. His testimony, which was also taken by telephone, included the following:

¹ Testimony in brackets reflects the substance of Mr. Polewski's questions.

I found that there were a number of things that had to be replaced. A number of things that had been done that I felt were not adequate and they should be replaced. I found problems in both of their mouths. One of Julie's main problems were a number of veneers on upper anterior teeth which were quite uncomfortable for her and there was quite a bit of tissue swelling and discomfort there and we opted to replace those eventually with crowns. We noted swelling. Because of inadequate margins there was plaque accumulation . . . and inflammation of the gingiva around the crowns of the teeth. [The dental work that I saw in Jennifer and Julie Rebholz' mouth did not in my opinion meet the minimally acceptable standards of dentistry in Wisconsin.] [When I excavated Jennifer's fillings, I] found numerous areas of decay that had been left in beneath the amalgam restorations in her mouth.

It is well established that the objective of licensing discipline is the protection of the public by promoting the rehabilitation of the licensee, and by deterring other licensees from engaging in similar misconduct. State v. Aldrich, 71 Wis. 2d 206 (1976). Punishment of the licensee is not an appropriate consideration. State v. McIntyre, 41 Wis. 2d 481 (1968). Because respondent failed to respond in any way to these proceedings, there is no countervailing evidence or mitigating factors contained in this record. The evidence is thus clear and convincing not only that respondent's practice of dentistry fell below the minimum standards of the profession, but that his behavior in providing dental services to both of these patients was nothing less than outrageous. The disciplinary objectives therefore more than justify the revocation of Dr. Karlin's license.

Dated this 17th day of June, 1996.

Wayne R Austin

Administrative Law Judge

Respectfully submitted.

WRA:9606113.doc

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review. The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

1400 East Washington Avenue P.O. Box 8935 Madison, WI 53708.

The Date of Mailing this Decision is:

July 11, 1996

1. REHEARING

Any person aggrieved by this order may file a written perition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the Wisconsin Statutes, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for reheating should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, Wisconsin Statutes a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filled in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for reheating. (The date of mailing this decision is shown above.)

IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST

ORDER FIXING COSTS Case #LS9603181DEN

JAMES R. KARLIN, D.D.S., RESPONDENT.

On July 10, 1996, the Dentistry Examining Board filed its Final Decision and Order in the above-captioned matter by which the board ordered that pursuant to sec. 440.22, Wis. Stats., 100% of the costs of this proceeding be assessed against respondents. Pursuant to sec. RL 2.18 (4), Wis. Adm. Code, on or about July 18, 1996, the board received the Affidavit of Costs in the amount of \$220.50, filed by Attorney James E. Polewski. On or about June 18, 1996, the board received the Affidavit of Costs of Office of Board Legal Services in the amount of \$264.20, filed by Administrative Law Judge Wayne R. Austin. The board considered the affidavits on January 10, 1997, and orders as follows:

ORDER

NOW, THEREFORE, IT IS ORDERED that pursuant to sec. 440.22, Wis. Stats., the costs of this proceeding in the amount of \$484.70, which is 100% of the costs set forth in the affidavits of costs of Wayne R. Austin and James E. Polewski, which are attached hereto and made a part hereof, are hereby assessed against James R. Karlin, D.D.S., and shall be payable by him/her to the Department of Regulation and Licensing. Failure of respondent to make payment on or before February 9, 1997, which is the deadline for payment established by the board, shall constitute a violation of the Order unless respondent petitions for and the board grants a different deadline. Under sec. 440.22 (3), Wis. Stats., the department or board may not restore, renew or otherwise issue any credential to the respondent until respondent has made payment to the department in the full amount assessed.

To ensure that payments for assessed costs are correctly receipted, the attached "Guidelines for Payment of Costs and/or Forfeitures" should be enclosed with the payment.

Dated this

. 1996

g:\bdls\costs1

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416 hearing or speech TRS# 1-800-947-3529 impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On July 10, 1996 , the Dentistry Examining Board	
took disciplinary action against your license. Part of the discipline was an assessment forfeiture.	of costs and/or a
The amount of the costs assessed is: \$484.70 Case #: LS9603181DE	N
The amount of the forfeiture is: Case #	
Please submit a check or a money order in the amount of \$ 484.70	
The costs and/or forfeitures are due: February 9, 1997	
NAME: James R. Karlin, D.D.S. LICENSE NUMBER: 5000174	<u> </u>
STREET ADDRESS: P.O. Box 38	
CITY: Goleta STATE: CA ZIP COD	DE: <u>93116</u>
Check whether the payment is for costs or for a forfeiture or both:	
X COSTS FORFEITURE	
Check whether the payment is for an individual license or an establishment license:	
X INDIVIDUAL ESTABLISHMENT	
If a payment plan has been established, the amount due monthly is: For Receipting	; Use Only
Make checks payable to:	
DEPARTMENT OF REGULATION AND LICENSING 1400 E. WASHINGTON AVE., ROOM 141 P.O. BOX 8935 MADISON, WI 53708-8935	
#2145 (Rev. 9/96) Ch. 440.22, Stats.	

Committed to Equal Opportunity in Employment and Licensing+

State of Wisconsin Before the Dentistry Examining Board

In the Matter of Disciplinary Proceedings Against James R. Karlin, D.D.S., Respondent Case No. LS 9603181 DEN

Affidavit of Costs of the Division of Enforcement

James E. Polewski, being first duly sworn on oath, deposes and says

- 1. He is an attorney licensed to practice law in the state of Wisconsin, employed by the Division of Enforcement, Department of Regulation and Licensing.
- 2. In the course of that employment, he was assigned as prosecuting attorney in this case, and expended the following time and committed the Division to the expenditure of the following sums of money:

Date	Activity	Time
3/6/96	Review files	2 hours
3/7/96	Draft complaint	2.5 hours
3/15/96	Prepare notice of hearing	.25 hour
5/13/96	Hearing	<u>.5 hour</u>
	TOTAL ATTORNEY TIME	5.25 hours

Assessable Attorney costs (5.25 hours @ \$42.00)

\$220.50

James F Polewski

Sworn to and subscribed before me this 16th day of July, 1996.

Notary Public

My Commission is Permanent

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST

LS9603181DEN

JAMES R. KARLIN, D.D.S.,

Respondent

AFFIDAVIT OF COSTS OFFICE OF BOARD LEGAL SERVICES (SEC. 440.22, STATS.)

STATE OF WISCONSIN) ss. COUNTY OF DANE)

Wayne R. Austin, being first duly sworn on oath, deposes and states as follows:

- 1. Your affiant is an attorney licensed to practice law in the State of Wisconsin, and is employed by the Wisconsin Department of Regulation & Licensing, Office of Board Legal Services.
- 2. In the course of his employment, your affiant was assigned as administrative law judge in the above-captioned matter.
- 3. Set out below are the actual costs of the proceeding for the Office of Board Legal Services in this matter. Unless otherwise noted, all times for document preparation, conferences and hearings are calculated commencing at the start of the first five minute period following actual start of the activity, and terminating at the start of the first five minute period prior to the actual end of the activity.

ADMINISTRATIVE LAW JUDGE EXPENSE

Wayne R. Austin

DATE &
TIME SPENT

ACTIVITY

4/8/96

10 minutes

Draft Notice of Prehearing Conference

5/13/96

20 minutes

Conduct Hearing

6/11/96 1 hour, 10 minutes	Prepare Proposed Decision		
6/13/96 2 hours, 45 minutes	Prepare Proposed Decision		
6/14/96 55 minutes	Prepare Proposed Decision		
6/17/96 35 minutes	Prepare Proposed Decision		
Total Time Spent			
Total administrative law judge expense for Wa 5 hours, 55 minutes @ \$43.55, salary and bene			
REPORTER EXPENSE			

DATE & TIME SPENT

Pamela A. Haack

<u>ACTIVITY</u>

5/13/96 20 minutes Record hearing

Total Time Spent......20 minutes

Total expense for Pamela A. Haack:

20 minutes @ \$19.60 salary and benefits:......<u>\$6.53</u>

TOTAL ASSESSABLE COSTS FOR OFFICE OF BOARD LEGAL SERVICES: \$264.20

Wayne R. Austin, Administrative Law Judge

Sworn to and subscribed before me this 18th day of June, 1996.

Notary Public, State of Wisconsin My commission is permanent

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State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson Governor

July 25, 1996

Marlene A. Cummings Secretary

1400 E. WASHINGTON AVENUE P.O. BOX 8935-8935 MADISON, WISCONSIN 53708 608 266-2112

JAMES R. KARLIN, D.D.S. P.O. BOX 38 GOLETA, CA 93116

RE: In The Matter of Disciplinary Proceedings Against

James R. Karlin, D.D.S., Respondent, LS9603181DEN

Assessment of Costs

Dear Dr. Karlin:

On July 10, 1996, the Dentistry Examining Board took disciplinary action against your license. Part of the discipline was an assessment of costs. Enclosed please find the Affidavits of Costs of the Office of Board Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs assessed is \$484.70.

If you have objections to the assessed costs, you shall file your objections in writing. Your objections must be received at the office of the Dentistry Examining Board, Room 178, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, on or before August 9, 1996. After reviewing the objections, if any, the Dentistry Examining Board will issue an Order Fixing Costs.

Thank you.

Sincerely,

Pamela A. Haack Administrative Assistant Office of Board Legal Services

Enclosures

cc: Dentistry Examining Board

Department Monitor

Regulatory Boards

BEFORE THE STATE OF WISCONSIN DENTISTRY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST

AFFIDAVIT OF SERVICE

JAMES R. KARLIN, DDS, RESPONDENT.

Pamela A. Haack, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on July 25, 1996, she served the following upon the respondent:

Letter with Affidavits of Costs

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail. with a return receipt requested in an envelope properly addressed to the above-named respondent at:

P.O. Box 38 Goleta, CA 93116 Certified P 213 148 254

an address which appears in the files and records of the Dentistry Examining Board as the respondent's last known address.

Pamela A. Haack

Department of Regulation and Licensing

Subscribed and sworn to before me

this 40° day of

1996.

Notary Public

Dane County, Wisconsin

My Commission is Permanent

CERTIFIED

452 348 524

JIAM

SENDER:	

■Print your name and address on the reverse of this form so that we can return this ■Complete items 3, 4a, and 4b. a 1 and/or 2 for additional services.

#Attach this form to the tront of the mailpiece, or on the back if space does not

a The Return Receipt Requested on the mailphece below the article number of the date and the Return Receipt will show to word the delivered and the date

3. Article Addressed to:

20054 CH d3 116 200 BOX 38 James R Karlin

2 Received By: (Print Name)

6 Signature: (Addressee or Agent)

PS Form 3811, December 1994

COLETA CA 93116 968, 6 3 7NC P.O. BOX 38 1 AMES R. KARLIN

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7. Date of Delivery

☐ Express Mail

4b. Service Type

4a. Article Number

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Restricted Delivery Fee Special Delivery Fee Ja60 196 3181 4 DEN

Signification of the state of t

Domestic Return Receipt

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Restricted Delivery

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State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G. Thompson Governor

July 25, 1996

Marlene A. Cummings Secretary

1400 E. WASHINGTON AVENUE P O BOX 8935-8935 MADISON, WISCONSIN 53708 608 268-2112

JAMES R. KARLIN, D.D.S. P.O. BOX 38 GOLETA, CA 93116,

RE: In The Matter of Disciplinary Proceedings Against

James R. Karlin, D.D.S., Respondent, LS9603181DEN

Assessment of Costs

Dear Dr. Karlin:

On July 10, 1996, the Dentistry Examining Board took disciplinary action against your license. Part of the discipline was an assessment of costs. Enclosed please find the Affidavits of Costs of the Office of Board Legal Services and the Division of Enforcement in the above captioned matter. The total amount of the costs assessed is \$484.70.

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Thank you.

Sincerely,

Pamela A. Haack Administrative Assistant Office of Board Legal Services

Enclosures

cc: Dentistry Examining Board

Department Monitor

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors; Auctioneer, Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medicat; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary